

NAIC

NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

March 27, 2002

**EXECUTIVE
HEADQUARTERS**

2301 MCGEE STREET
SUITE 800
KANSAS CITY MO
64108-2662
VOICE 816-842-3600
FAX 816-783-8175

Honorable Sue Kelly, Chair
Honorable Luis V. Gutierrez, Ranking Member
Subcommittee on Oversight and Investigations
Committee on Financial Services
U.S. House of Representatives
Washington, DC 20515

Dear Representatives Kelly and Gutierrez:

**FEDERAL AND
INTERNATIONAL
RELATIONS**

HALL OF THE STATES
~~444 NORTH CAPITOL ST NW~~
SUITE 701
WASHINGTON DC
20001-1509
VOICE 202-624-7790
FAX 202-624-8579

I am writing to express my disappointment regarding the Subcommittee on Oversight and Investigations' misuse of information it received from the National Association of Insurance Commissioners (NAIC) relating to state regulation of viatical settlement contracts.

**SECURITIES
VALUATION
OFFICE**

1411 BROADWAY
9TH FLOOR
NEW YORK NY
10018-3402
VOICE 212-398-9000
FAX 212-382-4207

Based on a chart ("State Viatical Laws") prepared for the Subcommittee's use and featured prominently during the February 26th hearing ("Retirement Protection: Fighting Fraud in the Sale of Death"), Subcommittee members, hearing participants, and observers would incorrectly conclude that states have failed to protect consumers from viatical fraud.

The chart, which was prepared by Committee staff, assigned letter grades from "A" to "F" to individual states, based upon incorrect use of data that was originally collected and analyzed by the NAIC. Citing NAIC information as its source, the Committee staff chart implies that states have not done a good job of protecting consumers. Fourteen states were assigned a grade of "F" by the Committee staff. The misuse of NAIC information is particularly disappointing because staff made no request for NAIC technical assistance to understand or clarify our information when preparing its chart.

**WORLD
WIDE WEB**

www.naic.org

As it stands, the "State Viatical Laws" chart grossly over-simplifies the information prepared by NAIC. Consequently, the Committee staff findings presented in its chart are not supported by the underlying NAIC data. In particular, we note the following major flaws with the chart:

- First, the Committee staff chart relies upon certain categories of information drawn from a comprehensive 52-page compendium of state viatical laws prepared by the NAIC, while ignoring other information categories from the same NAIC compendium that are more important in determining whether American consumers are being adequately protected. For example, the Committee staff chart includes such NAIC categories as licensing requirements, fraud provisions, and advertising standards in

assigning grades to states, yet fails to include NAIC's categories listing state consumer protections for insurance policy sellers and viatical settlement investors. The original NAIC compendium of state laws on viatical settlements is attached for your review and the hearing record.

- Second, the Committee staff chart fails to make it clear that a viatical settlement is really two transactions involving one insurance policy: (1) the owner of the policy sells it to a viatical settlement provider; and (2) the provider looks for investors to buy the policy. This is an important distinction because state consumer protections basically treat policy sellers and investors separately, and the amount of state protection necessary may vary considerably. State insurance laws are used to protect policy sellers, whereas many states deal with viatical investors under their securities laws. As the viatical settlement market has expanded over the past several years, the investor base has grown to include financial institutions who are fully capable of conducting their own due diligence without the need for close government supervision. Viatical settlements today are typically pooled together for sale in larger amounts to more sophisticated investors.
- Third, the Committee staff chart does not count the impact of state securities laws at all in grading consumer anti-fraud protections. This omission wrongly assumes that state insurance laws are the only consumer protections available. It also implies that fraud against insurance policy sellers is the major market problem today. In reality, most viatical settlement frauds now involve the investor side of the transaction, not the insurance policyholder side.
- Four, by using incomplete NAIC information and misinterpreting its meaning, the Committee staff chart implies that state insurance regulation is failing to protect against fraud in viatical settlement transactions. To the contrary, the record of state action in this area demonstrates a vigilant regulatory response. Starting in 1993, the NAIC developed its first model law to protect consumers, primarily AIDS victims, who were selling insurance policies to raise money for medical and living expenses. As the market evolved toward elderly policyholders selling policies for other reasons, the NAIC amended its model viatical settlement law twice to offer increasingly stronger protections in the areas of financial disclosure, mandatory escrow accounts, truthful advertising, and broader licensing requirements for principals and agents who market viatical settlements. Our latest model law was just issued in 2001, which means most states have not yet had an opportunity to adopt its expanded protections.

Because the NAIC was not invited to testify, we were unable to present our views and correct misinformation at that time. State insurance regulators are very concerned that Members of Congress and the public are now misinformed due to the information in the chart and the conclusions it offered.

On behalf of NAIC and its members, I request that you include this letter and its attachment in the Subcommittee's hearing record to assure that our views are accurately presented. In addition, as this hearing generated a good deal of media attention, I ask that the Subcommittee issue a press statement to clarify these issues.

The NAIC and its members have fully cooperated with the Financial Services Committee, its staff, and the General Accounting Office on many issues. We have welcomed the opportunity to provide formal testimony and informal assistance on technical issues, as well as to supply much documentary information when requested. We welcome a fair and vigorous public policy debate on these issues as we continue our efforts to strengthen the insurance supervision system in the United States. However, incorrect information weakens the process for everyone.

Sincerely,

A handwritten signature in cursive script that reads "Terri M. Vaughan". The signature is written in black ink and is centered on the page.

Terri Vaughan
Commissioner of Insurance, Iowa
NAIC President

Cc: Honorable Michael G. Oxley, Chairman
Honorable John J. LaFalce, Ranking Member
Members of the Committee on Financial Services

Attachment

NAIC's Compendium of State Laws on Insurance Topics

VIATICAL SETTLEMENTS

NAIC MODEL ACT AND REGULATION	
Citation	NAIC Model Laws, Regulations and Guidelines, pages 697-1, 698-1
Based on NAIC model	The NAIC adopted the first model act, with basic protections, in 1993. The provisions were enhanced in 1998. The current model, adopted in March 2000, includes fraud identification efforts, advertising standards, and optional investor protections. Disclosures have been enhanced. The first regulation was adopted in 1994, with enhancements in 1999.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	All sales of life insurance policies for less than the expected death benefit.
Licensing Requirements and Fees	Provider, broker, investment agent [optional]: fees left up to state.
Provider's Financial Requirements	File annual statement containing information requested by commissioner. Commissioner may examine licensee when deemed necessary. Examination standards are based on the NAIC model for insurer examinations. Requires reporting to commissioner on viatical settlements to gather information on costs and profits. Bond required for provider and broker.
Viatication Side Consumer Protections	Disclose possible alternatives to viatical settlement, fact that proceeds may be taxable or subject to claims of creditors. Disclose possible loss of Medicaid and right to rescind contract. Disclose date funds will be available. Provides for confidentiality of medical information; requires unconditional refund provision; escrow arrangement. Disclose any affiliation between viatical settlement provider and insurer. Describes parameters for contract with insured after policy viaticated. Regulation contains minimum discounts for payments of face value of policy.
Investment Side Consumer Protections	Includes optional investor provisions if the insurance department is to regulate the investor side of the transaction, including disclosures to investors and advertising standards.
Fraud Prevention Provisions	Model includes extensive fraud prevention provisions including a requirement that the insurer and viatical settlement providers share information about the insured, a fraud warning, mandatory reporting of fraudulent acts and antifraud initiatives.
Advertising Standards	Standards included are based on the NAIC model standards for life insurance advertising.
Other Provisions	

	ALABAMA
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Securities regulators issued policy statement; do investment contract analysis.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	ALASKA
Citation	§§ 21.89.110; 45.55.155, 45.55.990; <i>Reg. tit. 3 § 300 to 385 under development (2000)</i>
Based on NAIC model	Law adopted eff. 4/15/00 is an enabling statute. <i>Much of regulation is drawn from current NAIC model act and regulation.</i>
Division of Regulatory Responsibilities	Insurance Department and Securities Department <i>Regulation defines insurance department authority.</i>
Covered Transactions	Any sale of a life insurance policy by the owner of the policy.
Licensing Requirements and Fees	Provider, broker, representative are required to be licensed. Fees to be set by regulation. <i>Representative must be appointed by provider.</i>
Provider's Financial Requirements	Director may adopt by regulation. <i>Regulation requires annual report of all viatical transactions; information mostly from NAIC regulation. Authority to examine business and affairs of provider.</i>
Viatication Side Consumer Protections	Director may adopt by regulation. <i>Reasonable payments based on table similar to model. Escrow requirements, disclosures, etc. from model.</i>
Investment Side Consumer Protections	Sales of a viatical settlement interest is a security; administration has authority to regulate the transaction. Do investment contract analysis.
Fraud Prevention Provisions	<i>Regulation draft includes most of model language.</i>
Advertising Standards	<i>Approval of advertising by director required.</i>
Other Provisions	<i>Broker may be compensated by fee; combination of fee provided by client and commissioner provider pays, provided that is disclosed; or commission paid by provider. Fraud prevention standards.</i>

	ARIZONA
Citation	§§ 44-1801, 44-1850
Based on NAIC model	
Division of Regulatory Responsibilities	Securities Department
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Agreements to purchase interest in life insurance policies are defined as securities. Must provide information to securities regulators of the state. Required disclosures to purchaser of interest; right to rescind the contract, terms of insurance policy, whether it is contestable, terms of premium payments, amount of commission and expenses. File advertising materials before use. Brokers may not sell viatical settlements if they have been convicted of a felony, etc.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	ARKANSAS
Citation	§§ 23-81-501 to 23-81-512; Ins. Reg. 69; § 23-42-102
Based on NAIC model	Yes, based on 1993 NAIC model act and 1994 regulation.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Sales of policies by those chronically or terminally ill.
Licensing Requirements and Fees	\$100 per year for providers and brokers.
Provider's Financial Requirements	Commissioner may examine licensee when deemed necessary. File annual statement in form prescribed by commissioner.
Viatication Side Consumer Protections	Contract must be approved by commissioner (60 day deemer). Disclose possible alternatives to viatical settlement, fact that proceeds may be taxable or subject to claims of creditors. Disclose possible loss of Medicaid and right to rescind contract. Disclose date funds will be available. Provides for confidentiality of medical information; requires unconditional refund provision; escrow arrangement. Includes standards for reasonable payments to 30 mo. life expectancy.
Investment Side Consumer Protections	A viatical settlement is included in the definition of security. It is exempt from the registration requirements if the underlying viatical settlement transaction is in compliance with the viatical settlement law at §§ 23-81-501 to 23-81-512 and the required disclosure documents are provided.
Fraud Prevention Provisions	None
Advertising Standards	Some advertising standards in regulation.
Other Provisions	Includes provisions related to chronic illness. Regulation includes forms for reporting and application.

	CALIFORNIA
Citation	Ins. §§ 10113.1 to 10113.2; Corp. §§ 25010, 25019, 25023
Based on NAIC model	1993 NAIC model used CA law as starting point.
Division of Regulatory Responsibilities	Insurance Department and Securities Department
Covered Transactions	Sales of policies insuring persons with catastrophic or life-threatening illness.
Licensing Requirements and Fees	Viatical settlement licensee: \$2,833 license fee; \$177 annual renewal.
Provider's Financial Requirements	Commissioner may examine licensee when deemed necessary. File annual statement in form prescribed by commissioner.
Viatication Side Consumer Protections	Obtain statement from physician that patient is of sound mind. Statement from viator that acknowledges life-threatening illness, represents that he has a full understanding of viatical settlement. Prior approval of forms (60-day deemer), may be disapproved if not in best interests of consumer. Disclose possible alternatives, tax consequences, possible interruption of public assistance. Viator has 15 days to rescind agreement.
Investment Side Consumer Protections	Securities regulators analyze investment contracts. Statute defines viatical settlement as a security. Sales may be made only to qualified purchasers, which are defined. Sales to qualified purchasers are exempt from registration.
Fraud Prevention Provisions	Commissioner shall adopt regulations to address conflicts of interest where the agent sold the policy being viaticated.
Advertising Standards	No provision
Other Provisions	Life insurance agent with license in good standing may engage in the business of viatical settlements. Right of absolute assignment included.

	COLORADO
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Securities regulators analyze investment contracts.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	CONNECTICUT
Citation	§§ 38a-465 to 38a-465m; Reg. 38a-465-1 to 38a-465-10
Based on NAIC model	Yes, based on 1998 NAIC model act and 1999 regulation.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies insuring persons with catastrophic or life-threatening illness.
Licensing Requirements and Fees	Filing fee for initial application: \$13; annual fee for each license issued or renewed: \$20; for provider or broker. Individual holding insurance broker license may act as viatical settlements broker.
Provider's Financial Requirements	File annual statement containing information commissioner prescribes by regulation. In response to a complaint, the commissioner may examine the affairs of a licensee. Contains additional provisions related to financing suggested by the viatical industry. Financing entities not covered by law. Regulation includes reporting requirements similar to model.
Viatication Side Consumer Protections	Prior approval of forms (60 day deemer). No information may be submitted to commissioner that identifies a viator, unless that viator gives specific permission, unless it is part of an investigation or a financing transaction. Consumer protections similar to model. May not restrict assignments if policy permits assignments. Funds must be sent to the viator within 2 business days after insurer acknowledgment of the transfer of ownership. Standards for reasonableness of payments in regulation.
Investment Side Consumer Protections	No provision
Fraud Prevention Provisions	No provision
Advertising Standards	Some advertising standards in regulation.
Other Provisions	May fine provider or broker up to \$1000 for each willful violation of this Act. Insurer must give assignee of group certificate notice of any right to convert; incontestability period must include time prior to conversion. Insurer obligations to respond to requests for information from viatical provider. Viatical settlement agent represents the provider and is responsible to it. Not licensed.

	DELAWARE
Citation	tit. 18 §§ 7501 to 7511
Based on NAIC model	Yes, based on 1998 NAIC model act.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies insuring persons with catastrophic or life-threatening illness.
Licensing Requirements and Fees	Provider, broker, agent, the agent represents the provider and must have a license as a life insurance agent. Brokers must be licensed as life insurance brokers.
Provider's Financial Requirements	File annual statement containing information requested by commissioner.
Viatication Side Consumer Protections	Disclose possible alternatives to viatical settlement, fact that proceeds may be taxable or subject to claims of creditors. Disclose possible loss of Medicaid and right to rescind contract. No information may be submitted to commissioner that identifies a viator, unless that viator gives specific permission, unless it is part of an investigation or a financing transaction. Consumer protections similar to model. Funds must be sent to the viator within 2 business days after insurer acknowledgment of the transfer of ownership.
Investment Side Consumer Protections	Securities regulators will do investment contract analysis.
Fraud Prevention Provisions	No provision
Advertising Standards	No provision
Other Provisions	

	DISTRICT OF COLUMBIA
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	FLORIDA
Citation	§§ 626.991 to 626.993
Based on NAIC model	Yes, including many of the changes in current NAIC model, plus some unique provisions.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Any sales of a life insurance policy by the owner of the policy.
Licensing Requirements and Fees	\$500 for provider license or annual renewal. Broker must be licensed as life agent or get viatical broker license for \$50. Viatical settlement sales agent must be licensed as a life agent. Department may adopt regulation requiring education or training. Must provide information and fingerprints for each individual responsible for the conduct of the provider's affairs and for the broker.
Provider's Financial Requirements	Provider must make a deposit of \$100,000 with the dept. or deposit \$25,000 and maintain a \$75,000 surety bond; commissioner may examine licensee when deemed necessary. Department may examine provider.
Viatication Side Consumer Protections	Disclosures similar to model: disclose possible alternatives to viatical settlement, fact that proceeds may be taxable or subject to claims of creditors, disclose possible loss of Medicaid and right to rescind contract. May not enter into viatical settlement if accelerated death benefit available that equals or exceeds viatical contract. State may not regulate discounts. Viatical settlement broker represents the viator, and must disclose to the viator the amount and method of calculating his compensation. Contracts must be approved by department (60 day deemer).
Investment Side Consumer Protections	Required disclosure to purchaser of viatical settlements. Includes provisions relative to the purchase agreement between the provider and investor. Further disclosures to purchasers of viatical settlements to help them evaluate policy. Approval of purchase agreements. Secondary market transactions must be completed through third-party trustee or escrow agent.
Fraud Prevention Provisions	Unlawful to enter into viatical settlement contract on policy obtained by a false or misleading application. Every provider and broker must adopt an anti-fraud plan.
Advertising Standards	Provisions related to advertising or offers to investors.
Other Provisions	Insurance department may make rules regarding recordkeeping. If a provider enters into a purchase agreement in Florida with a resident of another state, the purchaser's state of residence law will apply. If that state does not regulate purchase agreements, the provider must notify the purchaser that neither state regulates the transaction he is entering into.

	GEORGIA
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Securities regulators will review investment contracts.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	HAWAII
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Securities regulators will review investment contracts.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	IDAHO
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Some investment contract analysis.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	ILLINOIS
Citation	215 ILCS 158/1 to 158/99
Based on NAIC model	Yes, 1993 NAIC model act.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies insuring persons with catastrophic or life-threatening illness.
Licensing Requirements and Fees	Provider: \$1500 license fee; \$750 annual renewal fee. Provider does not include sophisticated investors meeting standards of Ill. securities law.
Provider's Financial Requirements	Director may examine licensee when deemed necessary. File annual statement in form prescribed by director.
Viatication Side Consumer Protections	Disclosure requirements similar to NAIC model. Also must disclose any affiliation between provider and issuer of policy to be viaticated. If joint policy must disclose affect on joint lives. May establish by regulation standards for reasonable payments.
Investment Side Consumer Protections	Some investment contract analysis.
Fraud Prevention Provisions	No provision
Advertising Standards	No provision
Other Provisions	Agent is appointed by company, not licensed by dept.; defined as one who solicits for the provider. Provider may not transfer policy except to another licensed provider.

	INDIANA
Citation	§§ 23-2-1-1, 27-8-19.8-1 to 27-8-19.8-26; Ins. Reg. 1-61
Based on NAIC model	Yes, 1993 NAIC model act and 1994 regulation.
Division of Regulatory Responsibilities	Insurance Department and Securities Department
Covered Transactions	Policies insuring persons with life-threatening or catastrophic illness.
Licensing Requirements and Fees	Provider must be licensed. Application fee \$1000. Annual renewal \$500. Agent or broker must be a licensed life insurance agent and disclose to dept. the intent to act as a viatical agent or broker.
Provider's Financial Requirements	File annual report in format prescribed by the commissioner. Regulation outlines content of report, similar to model regulation. Commissioner may examine licensee.
Viatication Side Consumer Protections	Provides 30-day unconditional rescission period; contract forms approved by commissioner (60 day deemer); requires disclosure of alternatives, tax consequences and effect on entitlement. Limits on contacts with insured. Regulation contains protections from model. Payments must be reasonable; standards in regulation.
Investment Side Consumer Protections	Defines viatical settlement contract as an investment when transferred to an investor.
Fraud Prevention Provisions	No provision
Advertising Standards	Some advertising standards in regulation.
Other Provisions	Provides penalties up to \$100,000 for each violation. Provider must possess net worth of \$150,000 to maintain license. Requirements for insurers from model regulation, including forms.

	IOWA
Citation	§§ 502.102, 502.202; 508E.1 to 508E.4, Reg. 191-50.120 to 191-50.124
Based on NAIC model	Authority to adopt regulations.
Division of Regulatory Responsibilities	Insurance Department and Securities Department
Covered Transactions	Enter into viatical settlements only with individuals owning policies covering individuals who are terminally or chronically ill, or as otherwise provided by regulation.
Licensing Requirements and Fees	To be adopted by regulation.
Provider's Financial Requirements	To be adopted by regulation.
Viatication Side Consumer Protections	To be adopted by regulation.
Investment Side Consumer Protections	Defines viatical settlement contract as an investment when transferred to an investor. Regulation contains rules for advertising. Seller of investment contracts must have NASD Series 7 and 63 licenses. Must provide disclosures to investors as specified in regulation.
Fraud Prevention Provisions	To be adopted by regulation.
Advertising Standards	To be adopted by regulation.
Other Provisions	May not enter into viatical settlement during a policy's contestable period. Rebuttable presumption that purchased policy to enter into viatical settlement.

	KANSAS
Citation	§§ 40-2,171 to 40-2,183; <i>bill pending with current model provision carried over to 2002</i>
Based on NAIC model	Yes, based on 1998 NAIC model act.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policy covering individual with catastrophic, chronic, or life-threatening illness.
Licensing Requirements and Fees	\$1,000 license fee; \$500 annual renewal for provider, broker or representative
Provider's Financial Requirements	File annual statement with the commissioner containing information required by regulation.
Viatication Side Consumer Protections	Disclose possible alternatives to viatical settlement, fact that proceeds may be taxable or subject to claims of creditors. Disclose possible loss of Medicaid and right to rescind contract. Disclose date funds will be available. Provides for confidentiality of medical information; requires unconditional refund provision; escrow arrangement. Disclose any affiliation between viatical settlement provider and insurer. Describe parameters for contact with insured after policy viaticated. Regulation contains minimum discounts for payments of face value of policy.
Investment Side Consumer Protections	Securities regulators analyze investment contracts.
Fraud Prevention Provisions	No provision
Advertising Standards	No provision
Other Provisions	

	KENTUCKY
Citation	§§ 304.15-020, 304.15-700 to 304.15-725; Reg. 806 KAR 9:310 to 9:330; 15:050
Based on NAIC model	Yes, based on 1998 NAIC model act and 1999 regulation with unique modifications.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Any sale of a life insurance policy by the owner, or loan not secured by the cash value.
Licensing Requirements and Fees	Provider: \$500 if individual, \$1500 if corporation or firm. Broker: \$250 if individual, \$750 if corporation or firm. Both licenses renewed biennially. A broker's license requires 40 hours of prelicensing education and an examination. Business entity licensed as a broker must also license each individual broker in the firm. Broker also subject to requirement for 24 hours of continuing education each biennium.
Provider's Financial Requirements	Commissioner may examine company whenever deemed necessary. Provider or broker must provide evidence of financial responsibility in amount of not less than \$500,000 per occurrence or \$1.5 million in the aggregate for all occurrences within one year. May be in the form of an E&O policy, bond, deposit, etc.
Viatication Side Consumer Protections	Contains disclosure requirements from NAIC model: disclosure of alternatives to viatical settlement, possible tax consequences and loss of government benefits, right of rescission, date and amount of viatical settlement. Contract must be submitted to commissioner for approval and be in readable language (60 day deemer). Requires proceeds to be held by independent third-party trustee during transaction. May not enter into contract where accelerated death benefit is available offering equal benefit.
Investment Side Consumer Protections	Securities regulators analyze investment contracts.
Fraud Prevention Provisions	Unlawful to enter into viatical settlement contract in regard to a policy that was fraudulently obtained. May not act as viatical settlement broker in regard to the same policy that an individual earned a commission for selling to the policy owner.
Advertising Standards	Requirements in regulation similar to current model.
Other Provisions	Violations of law may result in fine of up to \$10,000 for each violation

	LOUISIANA
Citation	§§ 22:201 to 22:210.1; Reg. 58
Based on NAIC model	Yes, similar to 1993 NAIC model act and 1994 regulation.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies insuring persons with catastrophic, chronic or life-threatening illness.
Licensing Requirements and Fees	Provider: \$1000 initial fee; \$500 annual renewal; Broker: \$50 yearly; broker must be licensed life insurance agent.
Provider's Financial Requirements	Commissioner may examine company whenever deemed necessary to determine whether company acting in good faith. Any information about viator is confidential and may not be disclosed by commissioner. \$500,000 capital requirement in bond or cash or cash equivalents.
Viatication Side Consumer Protections	Protections similar to NAIC model act. Contains minimum discounts. Added provisions relative to chronically ill individuals. Authority to adopt minimum discounts for chronically ill by regulation. Discretion on part of commissioner to reduce minimum percentages by up to 10% due to economic conditions, or because policy is still in contestable period.
Investment Side Consumer Protections	Securities regulators review some investment contracts.
Fraud Prevention Provisions	No provision
Advertising Standards	Some standards in regulation.
Other Provisions	Authority to set capital and surplus requirements by regulation. Broker includes one who seeks funds for viatical settlements.

	MAINE
Citation	tit. 24-A §§ 6801 to 6814; tit. 32 §§ 10501 to 10504; § 10607-A; Ins. Reg. 930.
Based on NAIC model	Based on 1998 NAIC model act; includes many concepts from current model act in regulation based on 1999 version.
Division of Regulatory Responsibilities	Insurance Department and Securities Department
Covered Transactions	Policies insuring persons with catastrophic or life-threatening illness.
Licensing Requirements and Fees	Provider: application fee \$400, annual renewal fee \$400. Producer must be licensed life and health agent and appointed by provider. Fee for filing annual report: \$100
Provider's Financial Requirements	Provider must demonstrate evidence of a binding and committed lending facility of at least \$1 million with a term of at least one year; or a net worth in excess of \$100,000. Must file an annual report with information prescribed by superintendent. Regulation details requirement similar to model. May not require information that permits identification of any viator.
Viatication Side Consumer Protections	Superintendent must approve viatical settlement contracts. Disclosures similar to NAIC model. Policy that permits assignment may not restrict insured from making absolute assignment. Regulation provides that details of independent medical review process be approved by supt. Standards for reasonable payments based on chart. Limitations to disclosure of personal information of viator.
Investment Side Consumer Protections	Defines viatical settlement contract as an investment when transferred to an investor. Investor may cancel contract within three days.
Fraud Prevention Provisions	Viatical settlement provider required to share application information with insurer. Fraud warning required. Mandatory reporting of fraudulent insurance acts.
Advertising Standards	Extensive advertising standards in regulation are similar to those in current model act and NAIC life insurance advertising rules.
Other Provisions	May fine up to \$500 for each violation of this Act. Administrator of policy must give notice of right to convert a group certificate to an individual policy. Standards for life insurers practices relative to viatical settlement providers. Independent viatical producer represents viator. Viatical producer represents provider. May not purchase any policy that is still in contestability period. Requires information sharing between providers and insurers.

	MARYLAND
Citation	<i>SB 742 pending (2001)</i>
Based on NAIC model	<i>Partially based on earlier NAIC model act.</i>
Division of Regulatory Responsibilities	<i>Insurance Department</i>
Covered Transactions	<i>Covers sale of life insurance policy for less than the expected death benefit.</i>
Licensing Requirements and Fees	<i>Provider and broker must be registered and pay a registration fee of \$250 biennially.</i>
Provider's Financial Requirements	<i>No provision</i>
Viatication Side Consumer Protections	<i>Disclosures from early NAIC model. Limits on contacts with insured.</i>
Investment Side Consumer Protections	<i>Securities regulators review investment contracts.</i>
Fraud Prevention Provisions	<i>No provision</i>
Advertising Standards	<i>No provision</i>
Other Provisions	

	MASSACHUSETTS
Citation	§§ 175:212 to 175:223; Reg. 940 CMR 18:01 to 18:08
Based on NAIC model	Yes, based on 1998 NAIC model act. AG regulation not based on NAIC model.
Division of Regulatory Responsibilities	Insurance Department and Attorney General's Office
Covered Transactions	Sale or loan contract on a life insurance policy on the life of an individual with a catastrophic, life-threatening or chronic illness.
Licensing Requirements and Fees	Licenses required of provider and broker. Representative is appointed by either of these and appointment is registered. Same fees as for an insurance agent or company.
Provider's Financial Requirements	File annual report containing information prescribed by regulation. Authority to examine licenses.
Viatication Side Consumer Protections	Disclosures from model. Confidentiality requirements. Right to rescind contract. Limits on contacts with viator. May not pay finders fee to doctor, attorney, accountant, etc. who has provided services to the insured. Authority to adopt standards for reasonable payments by regulation. Contracts subject to approval by the commissioner (60 day deemer). Specified disclosure in AG regulation. Also includes consumer brochure.
Investment Side Consumer Protections	Securities regulators review investment contracts. AG regulation includes disclosures to investors.
Fraud Prevention Provisions	No provision
Advertising Standards	Some provisions in AG regulation.
Other Provisions	

	MICHIGAN
Citation	§§ 550.521 to 550.528
Based on NAIC model	Yes, based on 1993 NAIC model act.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies covering person with a terminal illness.
Licensing Requirements and Fees	No license required.
Provider's Financial Requirements	Commissioner may examine company whenever deemed necessary.
Viatication Side Consumer Protections	Disclosures to consumer similar to NAIC model. Contract consideration must be held by escrow agent until deal closed.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	Commissioner may prohibit provider from entering into contracts in the state if committed fraud or other violations of Act.
Advertising Standards	No provision
Other Provisions	Prohibits payment to a viator conditioned on the viator's agreement to commit suicide.

	MINNESOTA
Citation	§§ 60A.961 to 60A.974
Based on NAIC model	Yes, based on 1993 NAIC model act and current model regulation.
Division of Regulatory Responsibilities	Commerce Commissioner regulates both insurance and securities.
Covered Transactions	Policies covering person with catastrophic or life-threatening illness.
Licensing Requirements and Fees	\$750 for initial license; \$250 for annual renewal for providers and brokers.
Provider's Financial Requirements	File annual statement containing information on viatical settlements entered into. Commissioner may examine company whenever deemed necessary. Viators' names and other data are confidential and may not be disclosed by the commissioner.
Viatication Side Consumer Protections	Disclosures required in NAIC model. Confidentiality and refund provisions from model also. Minimum discounts specified.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	No provision
Advertising Standards	Some advertising standards.
Other Provisions	

	MISSISSIPPI
Citation	§§ 83-7-201 to 83-7-223; § 75-71-105; Reg. 2000-1
Based on NAIC model	Yes, based on 1998 model act and 1999 regulation.
Division of Regulatory Responsibilities	Insurance Department and Securities Department
Covered Transactions	Viatical settlement defined as any sale of a life insurance policy.
Licensing Requirements and Fees	Viatical settlement provider, viatical settlement broker, viatical settlement representative are licensed. Provider fee \$200 a year; representative or broker fee \$50 a year. Representative or broker who has not been licensed as an insurance agent within the last two years must pass a test prior to receiving a license.
Provider's Financial Requirements	Commissioner may examine licensee when deemed necessary. File annual statement in form prescribed by commissioner in regulation (model).
Viatication Side Consumer Protections	Disclose possible alternatives to viatical settlement, fact that proceeds may be taxable or subject to claims of creditors. Disclose possible loss of Medicaid and right to rescind contract. Disclose date funds will be available. Provides for confidentiality of medical information; requires unconditional refund provision; escrow arrangement. Regulation includes percentages for evaluation of reasonable payments from model regulation.
Investment Side Consumer Protections	"Security" includes a viatical settlement investment contract or a fractional or pooled interest. Definition of a viatical settlement contract includes transfer of the policy to the provider, assignment of a life insurance policy to a bank, etc. as collateral for a loan, and the exercise of accelerated benefits under the terms of a life insurance policy.
Fraud Prevention Provisions	No provision
Advertising Standards	Provider must maintain a file of its advertising for the past 3 years, and make it available to the commissioner for inspection. Regulation contains some advertising standards.
Other Provisions	

	MISSOURI
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	MONTANA
Citation	§ 33-20-1301 to 33-20-1315; Reg. 6.6.8501 to 6.6.8509
Based on NAIC model	Yes, based on 1993 NAIC model, with notices to viatical settlement purchasers from 2001 model. Some elements of NAIC model regulation.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Statute does not define viatical settlement. Disclosures do talk about terminal illness. Viator defined as a person owning a policy on a person with a terminal illness.
Licensing Requirements and Fees	License required for provider and broker. Fees to be established by regulation. Provider: \$1900 annual fee; Broker \$50 one-time fee. Regulation shall establish bond requirements for providers and brokers. Providers and brokers bond required is amount of \$50,000.
Provider's Financial Requirements	Commissioner may require financial information that he or she deems relevant to evaluation of application. May revoke license if insolvent. File annual report; subject to examination by commissioner.
Viatication Side Consumer Protections	Commissioner must approve contract. Disclosures and other consumer protections required similar to model. May not discriminate between those that have dependents and those that don't. May establish standards by regulation for reasonable payments. Regulation provides that provider or broker must deliver brochure. Includes chart of reasonable payments.
Investment Side Consumer Protections	Securities regulators review investment contracts. Amendments to insurance law eff. 1/1/02 require certain disclosures to viatical settlement purchasers. Regulation provides that providers must comply with securities law if financed through securities.
Fraud Prevention Provisions	No provision
Advertising Standards	<i>Regulation contains some advertising standards.</i>
Other Provisions	Statute says provider may use term "life settlement" instead of "viatical settlement."

NEBRASKA	
Citation	LB 52 (2001)
Based on NAIC model	Yes, based on current NAIC model act.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Covers sale of life insurance policy for an amount less than the expected death benefit.
Licensing Requirements and Fees	Providers and brokers are licensed. Fees set by director not to exceed \$40 for brokers and \$100 for providers. Brokers licenses are renewed biennially and providers licenses are renewed annually. Life insurance agent may act as a broker without being licensed if he or she participates in no more than 5 viatical settlements per year and registers that intent with the director.
Provider's Financial Requirements	File annual report with director containing information prescribed by regulation. Authority to examine licensees similar to NAIC model or insurer examinations.
Viatication Side Consumer Protections	Disclosures similar to current NAIC model, limits on contacts with insured to determine health status. Authority to adopt standards for reasonable payments by regulation.
Investment Side Consumer Protections	Security is defined to include a viatical settlement contract or any pooled or fractionalized interest in such a contract. Viatical settlements investments may only take place with natural persons with a net worth of at least \$250,000 and taxable income in excess of \$125,000 in each of the last two years or net worth of \$500,000. Purchasers may also be corporations, partnerships, etc. specifically formed to acquire such securities, pension, profit-sharing or retirement plans, etc. For most purchasers the investment in a viatical settlement must not exceed 5% of net worth. Disclosure requirements. Requirement to file advertising and sales material with securities regulator.
Fraud Prevention Provisions	May not enter into contract during contestable period except for specified reasons. Provider must share information with insurer. Fraud provisions similar to NAIC model on insurance fraud. Requires antifraud initiatives by licensees, including an antifraud plan.
Advertising Standards	Advertising standards from model are similar to those from NAIC advertising rules for life insurers.
Other Provisions	

	NEVADA
Citation	<i>AB 618 (2001)</i>
Based on NAIC model	Yes, based on current NAIC model act.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Covers sale of a life insurance policy for an amount less than the expected death benefit.
Licensing Requirements and Fees	Provider and broker must be licensed. Provider license and annual renewal \$1,000; broker license and annual renewal \$500.
Provider's Financial Requirements	File annual report containing information prescribed by regulation. Commissioner has authority to examine licensees.
Viatication Side Consumer Protections	Contract forms and disclosures must be approved by commissioner. Disclosures from current model. Escrow provisions, authority to adopt standards for reasonableness of payment by regulation. Record retention requirements.
Investment Side Consumer Protections	None
Fraud Prevention Provisions	Provider must share application information with insurer. Fraud provisions similar to NAIC model on insurance fraud. Fraud plan required.
Advertising Standards	Advertising standards similar to model and NAIC rule for life insurance advertising.
Other Provisions	

	NEW HAMPSHIRE
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	NEW JERSEY
Citation	§§ 17B:30A-1 to 17B:30A-10; Reg. 11:4-35
Based on NAIC model	Yes, based on 1998 NAIC model act and 1999 regulation.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies insuring person with a catastrophic, life-threatening or chronic illness.
Licensing Requirements and Fees	License required for provider, broker, and representative. Fees to be established by regulation. Individuals seeking to be licensed as brokers or representatives must pass part of exam required for life insurance producers. Fees: provider \$1000, annual renewal \$250; broker or representative license \$75, application processing fee \$20, fingerprint processing fee \$49, annual renewal \$75; representative annual appointment fee \$100.
Provider's Financial Requirements	Commissioner may require financial information that he or she deems relevant to evaluation of application. File annual report containing information prescribed by regulation; subject to examination by commissioner. Annual report similar to model regulation.
Viatication Side Consumer Protections	Commissioner must approve contract. Deemed approved if not disapproved within 60 days. Disclosures and other consumer protections required similar to model. May establish standards by regulation for reasonable payments. Regulation contains factors to be considered. May not disclose viator's identity to any other person unless viator has provided written consent. Regulation may include provisions governing relationship of insurer and viatical settlement provider.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	No provision
Advertising Standards	Some advertising standards in regulation.
Other Provisions	Authority to require bond.

	NEW MEXICO
Citation	§§ 59A-20A-1 to 59A-20-11
Based on NAIC model	Yes, based on 1998 NAIC model.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies insuring person with a catastrophic, life-threatening or chronic illness.
Licensing Requirements and Fees	Initial license for provider: \$1000; renewal: \$200. Initial license for broker: \$100; renewal: \$100.
Provider's Financial Requirements	File annual report in format established by regulation; may examine books and records.
Viatication Side Consumer Protections	Commissioner must approve contract. Disclosures and other consumer protections required similar to model. May establish standards by regulation for reasonable payments.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	No provision
Advertising Standards	No provision
Other Provisions	

	NEW YORK
Citation	Ins. §§ 7801 to 7810; Reg. tit. 11 §§ 380.1 to 380.10 (Reg. 148)
Based on NAIC model	Yes, based on 1993 NAIC model.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies covering persons with catastrophic or life-threatening illness.
Licensing Requirements and Fees	Provider or broker: \$2,500 license fee, \$1,000 annual renewal.
Provider's Financial Requirements	Commissioner may examine company whenever deemed necessary. With application submit audited financial statements for 3 prior years, any documents filed with SEC. Must notify the dept. of any change in information provided. Dept. has company blank form, experience exhibit. Dept. will examine company at least once in every 5 years.
Viatication Side Consumer Protections	Disclose to consumers alternatives to sale of life insurance, tax consequences, possibility of interruption of public assistance. Viator may rescind within 30 days of execution or 15 days of receipt of proceeds, whichever is later. Disclose amount of compensation payable by the viatical company with respect to the settlement. Company required to submit to dept. a pricing memorandum providing a description of the method and assumptions used in determining the value to be paid viators. Viatical company shall deliver information booklet to each applicant describing effect of viatical settlement.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	
Advertising Standards	Some advertising standards included. Advertising subject to applicable parts of New York regulation on life insurance advertising.
Other Provisions	Insurer required to provide information to viatical settlement provider within 10 business days of request.

	NORTH CAROLINA
Citation	§ 58-58-42; Reg. 12.1700 to 12.1708 §§ 58-58-200 to 58-58-310; §§ 78A-2, 78A-13 to 78A-17; 78A-49; 78A-56; 78A-66 (Eff. 4/1/02)
Based on NAIC model	Yes, based on 1998 NAIC model; provisions eff. 4/1/02 based on current model.
Division of Regulatory Responsibilities	Insurance Department and Securities Department
Covered Transactions	Viatical settlement contract is defined as the sale of a life insurance policy for an amount that is less than the expected death benefit.
Licensing Requirements and Fees	Registration required for provider, broker, representative. Eff. 4/1/02, insurance department will license providers and brokers. License fee is \$100 annually.
Provider's Financial Requirements	Commissioner may examine provider or broker whenever deemed necessary. Each year provider must file annual statement containing information to be provided by regulation.
Viatication Side Consumer Protections	Disclosures and consumer protections similar to current model act. Standards and table for evaluation of reasonable payments included. Required to deliver information booklet to each applicant. Contracts must be approved by the commissioner.
Investment Side Consumer Protections	Securities regulators review investment contracts. Eff. 4/1/02, securities law defines a viatical settlement contract as a security. Requires disclosures and advertising standards similar to model. Right to rescind contract for 10 days.
Fraud Prevention Provisions	Person who commits fraudulent act is guilty of a felony. Fraud warning required on contracts and applications. Providers and brokers must have antifraud initiatives in place. Report suspected fraud to commissioner. Immunity and confidentiality provisions. (Eff. 4/1/02)
Advertising Standards	Some advertising standards in regulation. Eff. 4/1/02 model standards are in place for insurance side and securities side of transaction
Other Provisions	Upon written request of the viator, provider must disclose how arrived at payment amount, including disclosure of broker's commission. Eff. 4/1/02 must retain for 5 years copies of all contracts, checks, etc. and produce them for the department if requested.

	NORTH DAKOTA
Citation	§§ 26.1-33.2-01 to 26.1-33.2-13; § 10-04-02
Based on NAIC model	Yes, based on current NAIC model act.
Division of Regulatory Responsibilities	Insurance Department and Securities Department
Covered Transactions	Covers the sale of a life insurance policy for an amount that is less than the expected death benefit.
Licensing Requirements and Fees	Provider or broker license: \$250 initial fee; \$150 annual renewal. Broker must first be licensed as an insurance producer.
Provider's Financial Requirements	Report required on settlements transacted; specific requirements included. Examination provisions from original NAIC model.
Viatication Side Consumer Protections	Disclosure requirements from current NAIC model. Also requirements for confidentiality and escrow account from model. Contract must be approved by commissioner (60 day deemer). Limits on contacts with insured to determine health status.
Investment Side Consumer Protections	A viatical settlement contract or fractional interest therein is defined as a security.
Fraud Prevention Provisions	Applications must contain a fraud warning. Provider required to share information with insurer. May not enter into a contract within 2 years of policy issue except under specified circumstances. A person who knows of fraud is required to report it. Licensees must have an antifraud plan.
Advertising Standards	No provision
Other Provisions	

	OHIO
Citation	§§ 3916.01 to 3916.21; 1707.01
Based on NAIC model	Yes, current version
Division of Regulatory Responsibilities	Insurance Department and Securities Department
Covered Transactions	Policies covering individuals who transfer the death benefit of a life insurance policy for less than its face value.
Licensing Requirements and Fees	Providers and brokers are licensed. Fees to be established by regulation.
Provider's Financial Requirements	Department has the right to examine licensee according to the standards in law, which are similar to standards for insurers. File annual report containing information specified in regulation.
Viatication Side Consumer Protections	Disclosures from NAIC model. Contract forms must be approved by the department. Right to rescind contract; limits on contacts with viator. Confidentiality provisions. May adopt standards for reasonableness of payment by regulation.
Investment Side Consumer Protections	Defines a life settlement interest (in the securities code) to include any sale of the interest in a life insurance benefit for less than its expected death benefit and includes a viatical settlement.
Fraud Prevention Provisions	Information sharing with insurer required. May not enter into viatical contract within 2 years of policy purchase, except for stated reasons. Must report suspected viatical fraud, licensees must have in place antifraud initiatives and an antifraud plan.
Advertising Standards	Standards similar to model act and the NAIC standards for life insurance advertising.
Other Provisions	

	OKLAHOMA
Citation	tit. 36 §§ 4041 to 4052; §§ 4086 to 4096; Reg. 365:25-11-1 to 365:25-11-6; Reg. 365:25-13-1 to 365:25-13-7
Based on NAIC model	Yes, based on 1993 NAIC model act and the 1994 regulation (with changes for life settlements). Some provisions from 2001 model.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies insuring persons with catastrophic or life-threatening illness covered as viatical settlements, other sales of policies covered as life settlements.
Licensing Requirements and Fees	Viatical or life settlement provider license and renewal \$500. Viatical or life settlement broker license and annual renewal \$500.
Provider's Financial Requirements	File annual report containing information on policies viaticated. Commissioner may examine company whenever deemed necessary.
Viatication Side Consumer Protections	Contains disclosure requirements from NAIC model: disclosure of alternatives to viatical settlement, possible tax consequences and loss of government benefits, right of rescission, date and amount of viatical settlement. Broker must disclose any agreement made with provider for compensation. Consumer protections from model. Reasonable payments measured by table from model for viatical settlements.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	Model language, outlines fraudulent acts, requires fraud warning, immunity provision, antifraud initiatives required. Applies to both viatical settlements and life settlements.
Advertising Standards	Life settlement and viatical settlement licensees subject to advertising standards similar to model and NAIC regulation for life insurance advertising.
Other Provisions	Viatical provider must maintain surety in amount of \$50,000. Life settlement provider must maintain surety in the amount of \$100,000. Penalties for violations added.

	OREGON
Citation	§§ 744.319 to 744.358; Reg. 836-014-0200 to 836-014-0330
Based on NAIC model	Yes, based on 1993 NAIC model act and the 1994 regulation.
Division of Regulatory Responsibilities	Department of Consumer and Business Services (which includes insurance division)
Covered Transactions	Life settlement contracts defined as sale of a policy insuring a person with a terminal illness.
Licensing Requirements and Fees	\$400 initial license; \$200 annual renewal for provider. Broker fee is \$60 for initial fee, \$60 for biennial renewal.
Provider's Financial Requirements	Commissioner may examine company whenever deemed necessary. Report yearly on policy information.
Viatication Side Consumer Protections	Contains disclosure requirements from NAIC model: disclosure of alternatives to viatical settlement, possible tax consequences and loss of government benefits, right of rescission, date and amount of viatical settlement. Policyholder has right to retain optional riders such as disability income, accidental death. Regulation contains standards for minimum percentage of face value to pay, which may be reduced by premiums necessary to keep policy in force for life expectancy. Limits contacts with viator after contract entered into. Reg. contains disclosure statement format.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	No provision
Advertising Standards	No provision
Other Provisions	Provider must have assets in excess of liabilities in the amount of \$150,000 or deposit securities with the dept. in the sum of \$100,000 or file a surety bond of \$100,000

	PENNSYLVANIA
Citation	<i>SB 462 pending (2001)</i>
Based on NAIC model	<i>Yes, based on current NAIC model act.</i>
Division of Regulatory Responsibilities	<i>Insurance Department</i>
Covered Transactions	<i>Viatical settlement contract is defined as an agreement between a viatical settlement provider and a person owning a policy for a payment of less than the expected death benefit of the policy.</i>
Licensing Requirements and Fees	<i>Licensing required for provider and broker. Fee for provider is \$300 annually and for broker is \$100 annually.</i>
Provider's Financial Requirements	<i>Provider shall file annual audited financial statement. Dept. may require a bond for providers.</i>
Viatication Side Consumer Protections	<i>Disclosures and consumer protections similar to current model act. Broker must disclose his compensation for all offers received. Dept. may establish standards for determining reasonableness and permitted discounts.</i>
Investment Side Consumer Protections	<i>Securities regulators review investment contracts.</i>
Fraud Prevention Provisions	<i>Fraud provisions similar to model. Fraud warning required; antifraud initiatives.</i>
Advertising Standards	<i>No provision</i>
Other Provisions	

	RHODE ISLAND
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	SOUTH CAROLINA
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	SOUTH DAKOTA
Citation	§§ 47-31A-401 to 47-31A-402
Based on NAIC model	
Division of Regulatory Responsibilities	Securities Department
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	Viatical settlement is a security. The Securities Division has issued a policy statement that companies or individuals that buy policies directly from an insured, without seeking investors, need not register the transaction. Agents who facilitate the sale do not need to be registered as securities representatives.
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	TENNESSEE
Citation	§§ 56-50-101 to 56-50-111; <i>Reg. 0780-1-71 pending (2001)</i>
Based on NAIC model	Yes, based on 1998 NAIC model act and the current model regulation.
Division of Regulatory Responsibilities	Tennessee Department of Insurance and Commerce regulates both insurance and securities.
Covered Transactions	Life settlements include all sales of life insurance policies for less than the face value.
Licensing Requirements and Fees	Initial application: Provider \$500, broker \$500, representative \$200 fee. Renewable annually for these fees: provider \$500, broker \$500, representative \$100.
Provider's Financial Requirements	File annual report containing information prescribed by regulation. Commissioner may examine licensees to protect public. <i>Pending regulation includes model regulation standards for annual report. Standards for examinations include in regulation.</i>
Viatication Side Consumer Protections	Disclosures in 1998 model act. Commissioner may prescribe additional disclosures by regulation. Filing of contracts for prior review may be established by regulation. Limits contacts with the insured to determine health status. <i>Pending regulation includes table of reasonable payments; additional disclosures.</i>
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	<i>Pending regulation includes provisions prohibiting sale of a policy with two years of issuance except under certain circumstances. Defines other fraudulent acts that will result in penalties.</i>
Advertising Standards	<i>Pending regulation includes standards similar to current NAIC model act.</i>
Other Provisions	Acting without a license is a felony.

	TEXAS
Citation	I.C. art. 3.50-6A; Reg. 28 TAC 3.1701 to 3.1717
Based on NAIC model	No
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Covers all sales of life insurance policies for an amount less than the expected death benefit. Defines viatical settlements and life settlements, based on whether the insured has a catastrophic or life-threatening illness.
Licensing Requirements and Fees	Registration with dept; fee of \$500 for provider; \$250 for broker payable biennially.
Provider's Financial Requirements	Annual audited financial statement required. Data reports on transactions required annually.
Viatication Side Consumer Protections	Commissioner has authority by regulation to adopt disclosure requirements and rules to prohibit discrimination, maintain confidentiality, and regulate referral fees. Forms used in viatical settlements must be reviewed by the department; some are file and use and some prior approval. Informational brochure must be filed with dept. before being disseminated to viators. Regulation specifies contents of brochure. Commission disclosure required, upon request of viator. Limits on transfer of policy by company after purchase. Standards for escrow.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	Commissioner may revoke license if registrant violates law or commits fraud.
Advertising Standards	Advertising must be filed with the department for informational purposes.
Other Provisions	<i>If provider transfers policy to a third party, must notify the viator of the identity of that person.</i>

	UTAH
Citation	§ 31A-21-104
Based on NAIC model	No
Division of Regulatory Responsibilities	None specified
Covered Transactions	None specified
Licensing Requirements and Fees	No license is required.
Provider's Financial Requirements	None
Viatication Side Consumer Protections	None
Investment Side Consumer Protections	Pooled and fractional interests regulated as securities.
Fraud Prevention Provisions	None
Advertising Standards	None
Other Provisions	Insurable interest section of the law does not prohibit viatical settlements.

	VERMONT
Citation	tit. 8 §§ 3826 to 3834; Reg. 95-4
Based on NAIC model	Yes, based on 1993 NAIC model.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies covering insured persons with a catastrophic or life-threatening illness.
Licensing Requirements and Fees	Provider or broker fee of \$50 yearly. Surety bond of \$50,000. Broker must not be agent of a company. Must have E&O policy of \$250,000.
Provider's Financial Requirements	Commissioner may examine affairs of licensee when deemed prudent. Maintain records for inspection; commissioner may require reporting at specified intervals. Regulation contains form for annual report detailing information on policies viaticated.
Viatication Side Consumer Protections	Contracts must be approved by department (60 day deemer). Disclose alternatives, tax implications, right to cancel, impact on debts and Medicaid. Table of standards for reasonable payments, reduced by premium required to keep in force during viator's remaining life expectancy; payments increased by cash surrender value.
Investment Side Consumer Protections	Some analysis of investment contracts by securities regulator.
Fraud Prevention Provisions	No provision
Advertising Standards	No provision
Other Provisions	Corporation may buy a policy from its employee. Cap of 2% on broker commissions. Finder's fees prohibited. Requirements for life insurers included in reg.

	VIRGINIA
Citation	§§ 38.2-5700 to 38.2-5707; Reg. 14 VAC 5-71-10 to 5-71-100
Based on NAIC model	Yes, based on 1993 NAIC model act and 1994 regulation.
Division of Regulatory Responsibilities	State Corporation Commission (insurance regulator)
Covered Transactions	Policies insuring persons with catastrophic or life-threatening illness.
Licensing Requirements and Fees	Provider fee: \$500; biennial renewal \$500; broker fee \$50; yearly renewal fee: \$50.
Provider's Financial Requirements	Examination and annual statement requirements similar to original model. Provider must be bonded. Providers must maintain bond of \$100,000. Form of annual statement similar to model.
Viatication Side Consumer Protections	Contracts must be approved by commissioner. Standards and table of reasonable payments included in regulation. Contracts with insured for purpose of determining health status limited. Disclosure requirements from original model.
Investment Side Consumer Protections	Sales of fractional shares of interest in a pool of policies is defined as a security.
Fraud Prevention Provisions	No provision
Advertising Standards	No provision
Other Provisions	

	WASHINGTON
Citation	§§ 48.102.005 to 48.102.901; Reg. §§ 284-97-010 to 284-97-050
Based on NAIC model	Yes, based on 1993 NAIC model act and 1994 model regulation.
Division of Regulatory Responsibilities	Insurance Commissioner
Covered Transactions	Policies insuring persons with catastrophic or life-threatening illness.
Licensing Requirements and Fees	\$250 initial fee; \$25 annual renewal for providers; \$100 broker fee, renewable every two years, plus each viatical settlement company he or she represents shall pay an appointment fee of \$20 every 2 years. Broker must qualify as life insurance agent; appointed by each provider represented. Provider must have minimum capital of \$150,000.
Provider's Financial Requirements	Examination and annual statement requirements similar to model. Viatical settlement provider may not transfer interest in any policy that is the subject of an agreement to any entity that does not hold a WA license as a viatical settlement provider. Annual report providing information on policies viaticated is required.
Viatication Side Consumer Protections	Disclosure requirements and statement similar to NAIC model. May not place any limitations on use of the proceeds by the viator. Standards for contracts. May pay out in other than lump sum if obtain a bond in favor of all beneficiaries of the policy in an amount sufficient to guaranty the payment of all premium. Minimum payout, worksheet for calculating fairness.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	No provision
Advertising Standards	No provision
Other Provisions	Private cause of action with treble damages.

	WEST VIRGINIA
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

	WISCONSIN
Citation	§ 632.68
Based on NAIC model	Yes, based on 1993 NAIC model act.
Division of Regulatory Responsibilities	Insurance Department
Covered Transactions	Policies insuring persons with catastrophic or life-threatening illness.
Licensing Requirements and Fees	Initial licensure of either provider or broker: \$750; annual renewal of either license: \$250.
Provider's Financial Requirements	File annual report containing information specified by regulation.
Viatication Side Consumer Protections	Contract must be approved by commissioner (60 day deemer). Disclosures and requirements for providers from original NAIC model. Includes minimum standards for payment lower than NAIC model. Viator's beneficiary entitled to any double or additional indemnity for accidental death.
Investment Side Consumer Protections	Securities regulators review investment contracts.
Fraud Prevention Provisions	No provision
Advertising Standards	No provision
Other Provisions	Authority to require a bond, establish maximum broker fees.

	WYOMING
Citation	No provision
Based on NAIC model	
Division of Regulatory Responsibilities	
Covered Transactions	
Licensing Requirements and Fees	
Provider's Financial Requirements	
Viatication Side Consumer Protections	
Investment Side Consumer Protections	
Fraud Prevention Provisions	
Advertising Standards	
Other Provisions	

This chart does not constitute a formal legal opinion by the NAIC staff on the provisions of state law and should not be relied upon as such. Every effort has been made to provide correct and accurate summaries to assist the reader in targeting useful information. For further details, the statutes and regulations cited should be consulted.